



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
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Paper No. 14

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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MAIL

MAY 12 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
David Cuccia
Application No. 09/882,080
Filed: June 15, 2001
For: INSTANT REPLAY OF DIGITAL
VIDEO OPTIMIZED USING NON MPEG
FRAME TAGS

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed October 31, 2003 and supplemented via facsimile transmission on April 19, 2004, which is treated as a Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. § 1.181. No fee is required.

This application was held abandoned for failure to timely submit a response to the Final Office action mailed December 3, 2002 (paper No. 7). A Notice of Abandonment was mailed September 24, 2003 (paper No. 10).

Petitioner alleges that the Final Office action was not received.

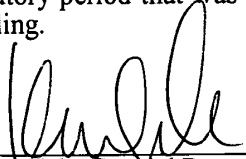
The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c), section II. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The supplemental statements submitted on April 19, 2004 taken together with the original statements and docket records submitted with the petition filed October 31, 2003 satisfy the requirements set forth above. Therefore, the Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

The petition is **GRANTED.**

Due to the time lapse between the original mailing of the Final Office action and the date of this decision, the application file is being returned to the examiner for updating the search and other action as appropriate. From there, the file will be forwarded to the Technology Center's technical support staff for mailing of the updated Office action. The shortened

statutory period that was originally set forth will be reset to run from the date of the new mailing.



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